

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

RICHARD WATERHOUSE,

Petitioner,

vs.

No. CIV-11-685 JB/CG

TIMOTHY HATCH, Warden,

Respondent.

**ORDER DENYING MOTION TO APPOINT COUNSEL**

**THIS MATTER** comes before the Court on Petitioner's *Motion for Appointed Counsel*. (Doc. 10). Petitioner states that his case "involves complex questions of law and fact which the petitioner is not capable of presenting to the Court without the assistance of counsel." (*Id.*). He further submits that his claims are not frivolous and that his petition presents "exceptional circumstances" which warrant the appointment of counsel. (*Id.*).

As a general matter, habeas petitioners do not have a right to appointed counsel. See *Clark v. Tansy*, 13 F.3d 1407, 1410 (10th Cir. 1993); *Carter v. Montgomery*, 769 F.2d 1537, 1543 (11th Cir. 1985). Ordinarily, there is no reason to appoint counsel unless the case has reached the stage of proceedings where an evidentiary hearing is required. See e.g., *United States v. Leopard*, 170 F.3d 1013, 1015 (10th Cir. 1999); *Swazo v. Wyoming Dept. of Corrections*, 23 F.3d 332, 333 (10th Cir. 1994). The Court has not yet determined, nor is it clear, whether an evidentiary hearing is required in this proceeding. See Rule 8(C), RULES GOVERNING SECTION 2254 CASES IN THE UNITED STATES DISTRICT COURTS. Accordingly, Petitioner's motion will be denied at this time.

**IT IS THEREFORE ORDERED** that Petitioner's *Motion for Appointed Counsel*, (Doc. 10), be **DENIED**.

A handwritten signature in black ink, appearing to read 'Carmen E. Garza', with a long horizontal line extending to the right.

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THE HONORABLE CARMEN E. GARZA  
UNITED STATES MAGISTRATE JUDGE